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10/824,683	04/15/2004	Timothy Nephi Tillotson	10030538-1	8077

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EXAMINER	
WON, MICHAEL YOUNG	
ART UNIT	**PAPER NUMBER**
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/824,683	TILLOTSON ET AL.	
	Examiner	Art Unit	
	MICHAEL Y. WON	2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 April 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to the amendment filed April 21, 2008.

2. Claims 7-15 have been amended.

3. Claims 1-20 have been examined and are pending with this action.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 4-6, and 8-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the first application specific protocol" in the last element of the claim. There is insufficient antecedent basis for this limitation in the claim. Appropriate format would be "first **instrument** application specific protocol".

Claims 1 and 4-6 recite the limitation "first protocol". There is insufficient numerical antecedent basis for this limitation in the claim. Appropriate format would be "protocol".

Claim 1 recites the limitation "clients". There is insufficient numerical antecedent basis for this limitation in the claim. Appropriate format would be "**other** clients" or "**secondary** clients".

Claim 4 recites the limitation "second application" and "second application specific protocol". Either there is insufficient antecedent basis or insufficient numerical antecedent basis for this limitation in the claim. Appropriate format would be "second **instrument** application" and "second **instrument** application specific protocol".

Claim 6 recites the limitation "second application". Either there is insufficient numerical antecedent basis for this limitation in the claim. Appropriate format would be "second **instrument** application".

Claim 8 recites the limitation "an application specific protocol" then later recites "the instrument application specific protocol". There is insufficient antecedent basis for this limitation in the claim. Appropriate correction would be "**instrument** application specific protocol" in the former or "application specific protocol" in the latter.

Claims 9-10 which depends on claim 8, recite the limitation "instrument application specific protocol". There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitation "a first application specific protocol" then later recites "the first instrument application specific protocol". There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitation "second application". There is insufficient numerical antecedent basis for this limitation in the claim. Appropriate format would be "second **instrument** application".

Claim 12 recites the limitation "an application specific protocol" then later recites "the instrument application specific protocol". There is insufficient antecedent basis for this limitation in the claim. Appropriate correction would be "**instrument** application specific protocol" in the former or "application specific protocol" in the latter.

Claim 13 recites the limitation "second application". There is insufficient numerical antecedent basis for this limitation in the claim. Appropriate format would be "second **instrument** application".

NOTE: Please look over the terms carefully and use the terms consistently within the claim language to avoid any types of antecedence.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Schwaller et al.. (US 6,625,648).

INDEPENDENT:

As per **claim 1**, Schwaller teaches a method for creating a protocol dependent control path within an instrument system, to allow a first client to communicate with the instrument system, the method comprising a first protocol comprising:

causing the instrument system to identify the first client (see col.3, lines 29-33: "the endpoint nodes may be automatically discovered by the console node"), wherein the first client is configured to invoke a first instrument application (see col.4, lines 2-4: "the console node may be an application executing on a single computer device coupled to the network") that is part of the instrument system and that controls an instrument that is part of the instrument system (see col.6, lines 56-59: "executing a browser application allowing a user to access the server computer"), the instrument making measurements of signals that are external to the instrument system (see col.6, lines 41-52: "being measured to provide test results"), wherein the first client is configured to communicate with the instrument system using a first client specific protocol (see col.6, lines 19-24: "Internet Protocol" or col.10, lines 55-64: "Simple Network Management Protocol"), and wherein the first instrument application is configured to communicate with clients using a first instrument application specific protocol (see col.4, lines 59-65: "User Datagram Protocol" or Transmission Control protocol" or col.7, lines 27-34: "test protocol");

causing the instrument system to identify the first instrument application with which the first client is configured to communicate (see col.3, lines 20-23: "Specific application programs may be designated");

causing the instrument system to identify the first client specific protocol (inherency: see col.10, lines 55-64: "Web server 52 provides a communication interface between console node 20 and user");

causing the instrument system to identify the first instrument application specific protocol (see col.3, lines 37-44: "defines an endpoint node specific test protocol"); and

causing the instrument system to automatically create a control path between the first client and the first instrument application (see col.10, lines 55-64: "Web server 52 provides a communication interface between console node 20 and user"), the control path communicating with the first client using the first client specific protocol and communicating with the first instrument application using the first application specific protocol (redundant limitation, see above).

As per **claim 8**, Schwaller teaches a computer readable memory device embodying a computer program, the program causing a computer within an instrument system to:

cause the instrument system to obtain identification of a client, wherein the client is configured to invoke an instrument application (see col.4, lines 2-4: "the console node may be an application executing on a single computer device coupled to the network") that controls an instrument that is part of the instrument system (see col.6, lines 56-59: "executing a browser application allowing a user to access the server computer"), the instrument making measurements of signals that are external to the instrument system (see col.6, lines 41-52: "being measured to provide test results"), wherein the client is configured to communicate with the instrument system using a client specific protocol

(see col.6, lines 19-24: "Internet Protocol" or col.10, lines 55-64: "Simple Network Management Protocol"), and wherein the instrument application communicates with clients using an application specific protocol (see col.4, lines 59-65: "User Datagram Protocol" or Transmission Control protocol" or col.7, lines 27-34: "test protocol");

cause the instrument system to identify instrument application (see col.3, lines 20-23: "Specific application programs may be designated");

cause the instrument system to identify the client specific protocol (inherency: see col.10, lines 55-64: "Web server 52 provides a communication interface between console node 20 and user");

cause the instrument system to identify instrument application specific protocol (see col.3, lines 37-44: "defines an endpoint node specific test protocol"); and

automatically cause the instrument system to create a control path between the client and instrument application (see col.10, lines 55-64: "Web server 52 provides a communication interface between console node 20 and user").

As per **claim 11**, Schwaller teaches a computer readable memory device embodying a computer program of instructions comprising a first set of instructions causing a computer within an instrument system to:

cause the instrument system to identify a client, wherein the client is configured to invoke a first instrument application (see col.4, lines 2-4: "the console node may be an application executing on a single computer device coupled to the network") that controls an instrument that is part of the instrument system (see col.6, lines 56-59: "executing a browser application allowing a user to access the server computer"), the

instrument making measurements of signals that are external to the instrument system (see col.6, lines 41-52: "being measured to provide test results"), wherein the client is configured to communicate with the instrument system using a client specific protocol (see col.6, lines 19-24: "Internet Protocol" or col.10, lines 55-64: "Simple Network Management Protocol"), and wherein the first instrument application communicates with clients using a first application specific protocol (see col.4, lines 59-65: "User Datagram Protocol" or Transmission Control protocol" or col.7, lines 27-34: "test protocol");

cause the instrument system to identify the first instrument application (see col.3, lines 20-23: "Specific application programs may be designated");

cause the instrument system to identify the client specific protocol (inherency: see col.10, lines 55-64: "Web server 52 provides a communication interface between console node 20 and user");

cause the instrument system to identify the first instrument application specific protocol (see col.3, lines 37-44: "defines an endpoint node specific test protocol"); and

automatically creating a control path between the first client and the first instrument application (see col.10, lines 55-64: "Web server 52 provides a communication interface between console node 20 and user");

the instructions further comprising:

repeating first set of instructions for the client and a second application, Wherein the second application is configured to communicate with clients using a second application specific protocol (inherency: see col.3, lines 20-23: "Specific application programs may be designated") and wherein the second application specific protocol

differs from the first instrument application specific protocol (see col.7, lines 31-34: "plurality of endpoint pairs executing respective associated test protocols").

As per **claim 12**, Schwaller teaches a computer readable memory device embodying a computer program of instructions comprising a first set of instructions causing a computer within an instrument system to:

cause the instrument system to identify a first client, wherein the first client is configured to invoke an instrument application (see col.4, lines 2-4: "the console node may be an application executing on a single computer device coupled to the network") that controls an instrument that is part of the instrument system (see col.6, lines 56-59: "executing a browser application allowing a user to access the server computer"), the instrument making measurements of signals that are external to the instrument system (see col.6, lines 41-52: "being measured to provide test results"), wherein the first client is configured to communicate with the instrument system using a first client specific protocol (see col.6, lines 19-24: "Internet Protocol" or col.10, lines 55-64: "Simple Network Management Protocol"), and wherein the instrument application communicates with clients using an application specific protocol (see col.4, lines 59-65: "User Datagram Protocol" or Transmission Control protocol" or col.7, lines 27-34: "test protocol");

cause the instrument system to identify the instrument application (see col.3, lines 20-23: "Specific application programs may be designated");

cause the instrument system to identify the first client specific protocol (inherency: see col.10, lines 55-64: "Web server 52 provides a communication interface between console node 20 and user");

cause the instrument system to identify the instrument application specific protocol (see col.3, lines 37-44: "defines an endpoint node specific test protocol"); and

automatically create a control path between the first client and the instrument application (see col.10, lines 55-64: "Web server 52 provides a communication interface between console node 20 and user");

the instructions further comprising:

repeating the first set of instructions for a second client and the instrument application, wherein the second client is configured to communicate with the instrument system using a second client specific protocol (inherency: see col.3, lines 20-23: "Specific application programs may be designated") and wherein the second client specific protocol differs from the first client specific protocol (see col.7, lines 31-34: "plurality of endpoint pairs executing respective associated test protocols").

As per **claim 13**, Schwaller teaches a computer readable memory device embodying a computer program of instructions comprising a first set of instructions causing a computer within an instrument system to:

cause the instrument system to identify a client, wherein the first client is configured to invoke an instrument application (see col.4, lines 2-4: "the console node may be an application executing on a single computer device coupled to the network") that controls an instrument that is part of the instrument system (see col.6, lines 56-59:

"executing a browser application allowing a user to access the server computer"), the instrument making measurements of signals that are external to the instrument system (see col.6, lines 41-52: "being measured to provide test results"), wherein the first client is configured to communicate with the instrument system using a client specific protocol (see col.6, lines 19-24: "Internet Protocol" or col.10, lines 55-64: "Simple Network Management Protocol"), and wherein the first instrument application communicates with clients using an application specific protocol (see col.4, lines 59-65: "User Datagram Protocol" or Transmission Control protocol" or col.7, lines 27-34: "test protocol");

cause the instrument system to identify the first instrument application (see col.3, lines 20-23: "Specific application programs may be designated");

cause the instrument system to identify the first client specific protocol (inherency: see col.10, lines 55-64: "Web server 52 provides a communication interface between console node 20 and user");

cause the instrument system to identify the first instrument application specific protocol (see col.3, lines 37-44: "defines an endpoint node specific test protocol"); and

automatically creating a control path between the first client and the first instrument application (see col.10, lines 55-64: "Web server 52 provides a communication interface between console node 20 and user");

the instructions further comprising:

repeating the first set of instructions for a second client and a second application (inherency: see col.3, lines 20-23: "Specific application programs may be designated"), wherein the second client is configured to communicate with the instrument system

using a second client specific protocol, wherein the second application is configured to communicate with clients using a second application specific protocol (see col.3, lines 37-44: "defines an endpoint node specific test protocol"), and wherein the second client specific protocol differs from the first client specific protocol (see col.7, lines 31-34: "plurality of endpoint pairs executing respective associated test protocols").

As per **claim 15**, Schwaller teaches a system comprising:

a management logic module configured to obtain identification of a first client (see col.3, lines 29-33: "the endpoint nodes may be automatically discovered by the console node"), to obtain identification of a first instrument application (see col.3, lines 20-23: "Specific application programs may be designated"), to obtain identification of a first client specific protocol (inherency: see col.10, lines 55-64: "Web server 52 provides a communication interface between console node 20 and user"), to obtain identification of a first instrument application specific protocol, and to automatically create a control path between the first client and the first instrument application (see col.10, lines 55-64: "Web server 52 provides a communication interface between console node 20 and user"), wherein the first client is configured to invoke the first instrument application (see col.6, lines 56-59: "executing a browser application allowing a user to access the server computer"), wherein the first client is configured to communicate using a client specific protocol (see col.6, lines 19-24: "Internet Protocol" or col.10, lines 55-64: "Simple Network Management Protocol"), wherein the first instrument application is configured to communicate using the first instrument application specific protocol (see col.4, lines 59-65: "User Datagram Protocol" or Transmission Control protocol" or col.7, lines 27-34:

"test protocol"), and wherein the first instrument application specific protocol differs from the first client specific protocol (see col.7, lines 31-34: "plurality of endpoint pairs executing respective associated test protocols").

DEPENDENT:

As per **claims 2 and 9**, which respectively depend on claims 1 and 9, Schwaller teaches further comprising: causing the instrument system to record the identification of the first client; causing the instrument system to record the identification of the first instrument application; causing the instrument system to record the identification of the first client specific protocol; and causing the instrument system to record the identification of the first instrument application specific protocol (see col.10, lines 45-46).

As per **claims 3 and 10**, which respectively depend on claims 1 and 9, Schwaller further teaches wherein first instrument application specific protocol differs from the first client specific protocol (see col.7, lines 31-34).

As per **claim 4**, which depends on claim 1, Schwaller teaches further comprising: repeating the first protocol for the first client and a second application, wherein the second application is configured to communicate using a second application specific protocol (see col.3, lines 20-23) and wherein the second application specific protocol differs from first instrument application specific protocol (see col.7, lines 31-34).

As per **claim 5**, which depends on claim 1, Schwaller teaches further comprising: repeating the first protocol for a second client and the first instrument application, wherein the second client is configured to communicate using a second client specific

protocol and wherein the second client specific protocol differs from the first client specific protocol (repeating the steps taught by Agarwal does not render the invention novel; see Fig.1, plural clients).

As per **claim 6**, which depends on claim 1, Schwaller teaches further comprising: repeating the first protocol for a second client and a second application, wherein the second client is configured to communicate using a second client specific protocol, wherein the second application is configured to communicate using a second instrument application specific protocol, and wherein the second client specific protocol differs from the first client specific protocol (repeating the steps taught by Agarwal does not render the invention novel; see Fig.1, plural clients).

As per **claim 7**, which depends on claim 6, Schwaller further teaches wherein the second instrument application specific protocol differs from the first instrument application specific protocol (repeating the steps taught by Agarwal does not render the invention novel; see Fig.1, plural clients).

As per **claim 14**, which depends on claim 13, Schwaller further teaches wherein the second instrument application specific protocol differs from the first instrument application specific protocol (see claim 3 and 10 rejection above).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

> invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwaller et al.. (US 6,625,648) in view of Sharma et al. (US 5,537,417).

As per **claim 16**, which depends on claim 15, Agarwal further teaches wherein the control path comprises: a communication logic module configured to receive communications from the first client (see col.10, lines 55-64) which conform to the first client specific protocol (see col.6, lines 19-24: "Internet Protocol" or col.10, lines 55-64: "Simple Network Management Protocol").

Schwaller does not explicitly teach to translate such communications into communications to which the first instrument application is configured to understand and to which the first instrument application is configured to appropriately react, and to transfer the translated communications to the first instrument application.

Sharma teach to translate such communications into communications to which the first instrument application is configured to understand and to which the first instrument application is configured to appropriately react, and to transfer the translated communications to the first instrument application (see col.4, lines 21-25).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Schwaller in view of Sharma by implementing translating such communications into communications to which the first instrument application is configured to understand and to which the first instrument application is configured to appropriately react, and to transfer the translated communications to the first instrument application. One would be motivated to do so

because Schwaller teaches the need for applications to work in heterogeneous network environments (see col.1, lines 28-34).

As per **claim 17**, which depends on claim 16, Schwaller further teaches wherein the communication logic module comprises: a server logic module configured to receive the communications from the first client (see col.6, lines 56-59).

Schwaller does not explicitly teach translator logic module configured to receive the communications from the server logic module and to translate the received communications into communications to which the first instrument application is configured to understand and to which the first instrument application is configured to appropriately react, and to transfer the translated communications to the first instrument application.

Sharma teaches translator logic module configured to receive the communications from the server logic module and to translate the received communications into communications to which the first instrument application is configured to understand and to which the first instrument application is configured to appropriately react, and to transfer the translated communications to the first instrument application (see claim 16, rejection above).

As per **claim 18**, which depends on claim 16, Schwaller further teaches wherein the system further comprises: wherein the first instrument application comprises a virtual instrument and an application component logic module and wherein the virtual instrument is configured to receive communications from the communication logic module (see claims 16 and 17 rejections above).

Schwaller does not explicitly teach to perform any additional translation of the communications into communications to which the application component logic module is configured to understand and to which the application component logic module is configured to appropriately react, and to transfer such communications to the application component logic module.

Sharma teaches to perform any additional translation of the communications into communications to which the application component logic module is configured to understand and to which the application component logic module is configured to appropriately react, and to transfer such communications to the application component logic module (see claim 16 rejection above).

As per **claim 19**, which depends on claim 16, Schwaller further teaches wherein the system further comprises: an additional communication logic module configured to receive additional communications from an additional client which conform to an additional client specific protocol (see claims 16 and 17 rejections above).

Schwaller does not explicitly teach to translate such additional communications into communications to which an additional application is configured to understand and to which the additional application is configured to appropriately react, and to transfer the translated additional communications to the additional application.

Sharma teaches to translate such additional communications into communications to which an additional application is configured to understand and to which the additional application is configured to appropriately react, and to transfer the

translated additional communications to the additional application (see claim 16 rejection above).

As per **claim 20**, which depends on claim 16, Schwaller further teaches wherein the system further comprises: an additional communication logic module configured to receive additional communications from an additional client which conform to an additional client specific protocol (see claims 16 and 17 rejections above).

Schwaller does not explicitly teach to translate such additional communications into communications to which the application is configured to understand and to which the application is configured to appropriately react, and to transfer the translated additional communications to the application.

Sharma teaches to translate such additional communications into communications to which the application is configured to understand and to which the application is configured to appropriately react, and to transfer the translated additional communications to the application (see claim 16 rejection above).

Response to Arguments

7. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

After further searching, the examiner has cited Schwaller to better teach the claimed invention. Examiner does not agree with the arguments presented by the applicant(s) with respect to Agarwal, however Schwaller has been employed to not only better teach the limitations of the recited claims, but also expedite prosecution.

Conclusion

8. For the reasons above, claims 1-20 have been rejected and remain pending.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL Y. WON whose telephone number is (571)272-3993. The examiner can normally be reached on M-Th: 10AM-8PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Won/

Primary Examiner

May 30, 2008